SUPREME COURT, U. S.
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No. 990.

In the

Supreme Court of the United States

OCTOBER TERM, 1970

FIRST NATIONAL BANK OF CHICAGO, as Guardian of the Estates of AMAL FAKHRI, AHMED FAKHRI, SEMIRAMIS FAKHRI, OMAR FAKHRI and AZA FAKHRI, Minors; AMAL FAKHRI, AHMED FAKHRI, SEMIRAMIS FAKHRI, OMAR FAKHRI and AZA FAKHRI, Minors, by FIRST NATIONAL BANK OF CHICAGO, as Guardians of Their Estates,

Petitioners.

vs.

THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, a corporation,

Respondent.

MOTION TO STRIKE ANSWER OF THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, a corporation, TO PETITIONERS' MOTION TO STRIKE

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Of Counsel:
WILLIAM A. MOORMAN

The Schaffer Press, Inc.—ANdover 3-6850

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We are reluctant to have to file another pleading in this Court. However, The Fidelity and Casualty Company of New York has now compounded its improper action. Initially it stated that the policy which was paid was "materially different" from its own policy. Now it devotes its brief not to showing that the policies are "materially different" but goes completely outside the record as follows: (a) on page 4 The Fidelity and Casualty Company of New York refers to "substantial guardianship estate pres-

ently pending in the Probate Division of the Circuit Court of Cook County under docket number 61 P 8345 (Confer: Republic of Iraq v. First National Bank of Chicago, 350 F.2d 645, 1965, 7th Cir.)"; and (b) it refers to the "oral argument" before the United States Court of Appeals and baldly states that Petitioners did not challenge defendant insurance company's claim to the effect that the policies were different. That statement is false. The brief of plaintiffs-appellees, filed in the United States Court of Appeals clearly pointed out that the policies were the same, insofar as this case is concerned.

It is indeed astounding for a national insurance company to make a statement in the United States Supreme Court concerning the size of the guardianship estate of the five children of Suzy Fakhri, and to refer to a docket number of the Probate Court of Cook County, Illinois—as though this Court should now order the file of the Probate Court and determine the assets of the minor children, and employ that irrelevant material as a basis for denying them the benefits of the policy of insurance purchased for them by their mother.

Wherefore, petitioners respectfully move this Honorable Court to strike the answer of defendant insurance company to petitioners' motion to strike.

Respectfully submitted,

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FR 2-5464
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